

IN THE MATTER OF:

**Dayton Sand & Gravel Co., Inc.**  
**York County**  
**Dayton, Maine**  
**A-190-75-I-X**

**Departmental**  
**Findings of Fact and Order**  
**Sales and Use Tax**  
**Exemption Certification**

After review of the tax exemption certification application and supporting documents, pursuant to Maine's Sales and Use Tax Law, 36 M.R.S.A. § 1760(30) and the Department of Environmental Protection's (Department) *Rules for the Processing of Applications*, 06-096 CMR 2, the Department has considered the application of Dayton Sand & Gravel Co., Inc. (Dayton), with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

**1. APPLICATION SUMMARY**

- A. History.** Dayton Sand & Gravel Co., Inc. (Dayton Sand & Gravel) owns and operates an asphalt plant, concrete plant and crushed stone / gravel facility based out of Dayton, Maine. Operation of this facility requires Department licensing of, among other things, air pollutant emissions.
- B. Application.** On January 29, 2004, Dayton Sand & Gravel filed an application seeking sales and use tax and property tax exemption for a new baghouse installed to replace an existing unit associated with emissions from the asphalt plant. The application was deemed complete for processing by the Department on March 8, 2003.
- C. Description.** The asphalt plant baghouse removes particulate matter from the exhaust stream of the asphalt plant. The baghouse filters processed air, removes dust and particulate matter, separates the removed particulates from the process air stream and returns them to the process, and exhausts the clean air.

All associated piping, electrical, concrete, insulation, and structural installations necessary for the construction and operation of the baghouse are also considered part of this facility.

## 2. OTHER FINDINGS

**A. Decision Obligations.** Pursuant to the Property Tax Law, 36 M.R.S.A. § 656(3), the Department shall issue a determination regarding certification for any air or water pollution control facility for which it has received a complete application by December 15<sup>th</sup> of the preceding year. Pursuant to the Department's *Rules for the Processing of Applications*, 06-096 CMR 2.14(1) and (2), this Decision shall set forth a findings of fact with sufficient explanation to make interested persons aware of the basis for the determination that the applicant has met the licensing criteria set forth in the appropriate statute or rule; or deny the application and set forth in the findings the explanation for the basis of the disapproval.

In making tax exemption certification decisions, the Department's responsibility is to determine whether an item is eligible for certification pursuant to the laws of the State of Maine. In a case where an exemption certification is approved, Maine Revenue Service has the responsibility of auditing receipts and determining the amount of reduction of sales and use tax liability.

**B. Industrial Air Pollutants.** Particulate Matter is an industrial air pollutant, as defined in the Department's *Emission Statements Rule*, 06-096 CMR 137.

**C. Functions.** The baghouse functions as a collection system for particulate matter. Operation of the baghouse will yield substantial reductions in the emission of particulate matter from Dayton Sand & Gravel's facility. The increase in volume, contribution to quality, or reduction of cost to the products manufactured at the facility is minimal compared to the cost of operating the baghouse.

The baghouse system is not a facility "such as an air conditioner, dust collector, fan or similar facility designed, constructed or installed solely for the benefit of the person for whom installed or the personnel of such person" (or company) and it was not designed or installed for the reduction or control of automobile exhaust emissions.

**D. Motivation for installation.** The sole reason for installation of the asphalt plant baghouse was to comply with the facility's Air Emission License where BACT for particulate matter was determined to be operation of a baghouse on the asphalt plant.

Dayton Sand & Gravel Co., Inc.  
York County  
Dayton, Maine  
A-190-75-I-X

IN THE MATTER OF:

Departmental  
Findings of Fact and Order  
Sales and Use Tax  
Exemption Certification

Based on the Findings of Fact in this Order, the Department makes the following CONCLUSION:

The items listed in Section 1(C) of this Order are appliances, equipment, machinery, installations or structures installed, acquired or placed in operation primarily for the purpose of reducing, controlling, eliminating or disposing of industrial air pollutants.

THEREFORE, the Department APPROVES the application of Dayton Sand & Gravel, as described in this Order.

DONE AND DATED IN AUGUSTA, MAINE, THIS            DAY OF            2004.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: \_\_\_\_\_  
DAWN R. GALLAGHER, COMMISSIONER

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application: January 29, 2004

Date of application acceptance: March 8, 2004

Date filed with the Board of Environmental Protection: \_\_\_\_\_

This Order prepared by Rachel E. Pilling, Bureau of Air Quality.